

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

**FILED**

2014 APR 21 PM 1:48

CLERK US DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY 8  
DEPUTY

MIKE BENAVIDES, VICTORIA §  
BRANNING, WALTER BRANNING, §  
KURTIS BROWN, THOMAS BRYAN, §  
PETE DIDONATO, SUSAN ERWIN, §  
BRYAN FITZPATRICK, CATHERINE §  
GERAC, CAROL PIERCE, COREY §  
RICKETSON, TEMPLE THOMAS, §  
GARY WADHAM, GREGORY WELLER, §  
DANI WINKLER, MICHAEL WRIGHT, §  
GLENN ANDERSON, PAUL ALVAREZ, §  
JANELLE BOONE, MICHAEL §  
BROADWATER, JOHNNIE HALL, §  
ERIC JAKUBAUSKAS, MARK §  
KARONIKA, DAVID LINDSLEY, §  
JASON MARTIN, MARK §  
MONTGOMERY, GLEN WOSKY, §  
MICHAEL WRIGHT, AMELIA ZAPATA, §  
LANDON WILLHOITE, AND EDWARD §  
JOHNS, §

PLAINTIFFS, §

V. §

CAUSE NO. A-11-CV-438-LY

CITY OF AUSTIN, §

DEFENDANT. §

**ORDER ON REPORT AND RECOMMENDATION**

Before the court are Plaintiffs' Opposed Motion for Attorney Fees and Unopposed Motion for Entry of Order Under FRCP 58(e)<sup>1</sup> filed February 20, 2014 (Clerk's Doc. No. 162), Defendant's Response to Plaintiffs' Motion [for] Fees and Costs filed March 6, 2014 (Clerk's Doc. No. 164), and Plaintiffs' Reply in Support of Motion for Attorney Fees filed March 13, 2014 (Clerk's Doc. No. 166). The above-listed motion was referred to the United States Magistrate Judge for findings and recommendations pursuant to 28 U.S.C. § 636(b), Federal Rule of Civil Procedure 72, and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of

<sup>1</sup> This court considered and granted the unopposed portion of this motion on February 26, 2014 (Clerk's Doc. No. 163). With the rendering of this order, judgment in this cause shall be final.

Texas, as amended. The magistrate judge filed his Report and Recommendation on March 31, 2014 (Clerk's Doc. No. 167), recommending that this court grant Plaintiffs' motion in part and award Plaintiffs \$349,876.25 in attorney's fees and \$9,350.65 in costs.

Pursuant to 28 U.S.C. § 636(b) and Rule 72(b) of the Federal Rules of Civil Procedure, a party may serve and file specific, written objections to the proposed findings and recommendations of the Magistrate Judge within 14 days after being served with a copy of the Report and Recommendation, and thereby secure a *de novo* review by the District Court. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a Report and Recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*).

The record reflects that parties received the Report and Recommendations on March 31, 2014 and timely filed objections on April 14, 2014 (Clerk's Doc. Nos. 168 and 169). In light of both parties' objections, the court has undertaken a *de novo* review of the entire case file in this cause. The court, having carefully reviewed the objections, motion, response, reply, and entire record in the cause, and finding no error, accepts the report and recommendation as filed for substantially the reasons articulated therein.

**IT IS THEREFORE ORDERED** that the objections contained in Defendant's Objections to the Report and Recommendation of the United States Magistrate Judge (Clerk's Doc. No. 168) are **OVERRULED**.

**IT IS FURTHER ORDERED** that the objections contained in Plaintiffs' Objections to Magistrate's Recommendation on Motion for Attorney Fees (Clerk's Doc. No. 169) are **OVERRULED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation of the United States Magistrate Judge (Clerk's Doc. No. 167) filed in this cause is hereby **ACCEPTED** and **ADOPTED** by the court.

**IT IS FURTHER ORDERED** that Plaintiffs' Opposed Motion for Attorney Fees (Clerk's Doc. No. 162) is **GRANTED IN PART** as follows: Plaintiffs shall be awarded \$349,876.25 in attorney's fees and \$9,350.65 in costs. In all other respects, the motion is **DENIED**.

SIGNED this 21st day of April, 2014.

  
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LEE YEAKEL  
UNITED STATES DISTRICT JUDGE